

1 RUSSIAN RIVERKEEPER,

2 Plaintiff,

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28v.
PACIFIC STATES INDUSTRIES INC., et al.,

Defendants.

MEMORANDUM & ORDER**Re: Plaintiff's Motion to Show Cause and
Defendants' Motion for Rule 11 Sanctions**

On September 3, 2008, this court approved a consent decree negotiated between plaintiff Russian Riverkeeper and defendants. Docket No. 33. This decree allows plaintiff to conduct yearly site visits of the defendants' sawmill.

In its motion to show cause, plaintiff contended that paragraph 17 of the decree allows the presence of plaintiff's counsel during the site visit. Docket No. 36. During the March 15, 2010 hearing on this motion, the court held the following: 1) Riverkeeper's water quality engineer is the sole person who may conduct the site visit; 2) no attorneys fees are warranted; 3) plaintiff to reimburse defendants \$2,346.25—the expert fees incurred by defendants for the January 2010 site visit; and 4) plaintiff has not forfeited its right to the annual site visit.

Defendants have now filed a Rule 11 motion, based on identical facts, seeking attorneys' fees and forfeiture of the site visit. They claim further remedies are warranted because plaintiff's motion to show cause was intended to "harass and increase the costs of litigation . . ." Docket No. 46 at 9:11-12. Defendants' filing of the request for Rule 11 sanctions, even though identical arguments and remedies have already been rejected, undercuts their argument. The motion itself unnecessarily

1 harasses plaintiff and increases the costs of litigation. *See id.* at 9:1-3 (expending almost \$4,000 to
2 file the motion for sanctions). The motion for Rule 11 sanctions is denied in its entirety. All parties
3 are warned against filing further unnecessary or frivolous motions.

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5 IT IS SO ORDERED.

6 Dated: March 31, 2010

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6 MARILYN HALL PATEL
7 United States District Court Judge
8 Northern District of California